

§ 92.219

year, excluding funds drawn for purposes identified in paragraph (c) of this section.

(b) *Shortfall amount from State or local resources.* Amounts made available under § 92.102(b)(2) from the resources of a State (other than a transfer of the State's formula allocation), the local participating jurisdiction, or both, to enable the local participating jurisdiction to meet the participation threshold amount are not required to be matched and do not constitute matching contributions.

(c) *HOME funds not required to be matched.* HOME funds used for administrative and planning costs (pursuant to § 92.207); community housing development organization operating expenses (pursuant to § 92.208); capacity building (pursuant to § 92.300(b)) of community housing development organizations; and project specific assistance to community housing development organizations (pursuant to § 92.301) when the participating jurisdiction waives repayment under the provisions of § 92.301(a)(3) or § 92.301(b)(3) are not required to be matched.

(d) *Match contribution for other programs.* Contributions that have been or will be counted as satisfying a matching requirement of another Federal grant or award may not count as satisfying the matching contribution requirement for the HOME program.

§ 92.219 Recognition of matching contribution.

(a) *Match contribution to HOME-assisted housing.* A contribution is recognized as a matching contribution if it is made with respect to:

(1) A tenant who is assisted with HOME funds;

(2) A HOME-assisted unit;

(3) The portion of a project that is not HOME-assisted provided that at least 50 percent of the housing units in the project are HOME-assisted. If the match contribution to the portion of the project that is not HOME-assisted meets the affordable housing requirements of § 92.219(b)(2), the percentage requirement for HOME-assisted units does not apply; or

(4) The commercial space in a mixed-use project in which at least 51 percent of the floor space is residential pro-

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vided that at least 50 percent of the dwelling units are HOME-assisted.

(b) *Match contribution to affordable housing that is not HOME-assisted.* The following requirements apply for recognition of matching contributions made to affordable housing that is not HOME-assisted:

(1) For tenant-based rental assistance that is not HOME-assisted:

(i) The contribution must be made with respect to a tenant who is assisted with tenant-based rental assistance that meets the requirements of § 92.203 (Income determinations) and paragraphs (a), (c), (f), and (i) of § 92.209 (Tenant-based rental assistance); and

(ii) The participating jurisdiction must demonstrate in writing that such assistance meets the provisions of §§ 92.203 and 92.209 (except § 92.209(e)).

(2) For affordable housing that is not HOME-assisted:

(i) The contribution must be made with respect to housing that qualifies as affordable housing under § 92.252 or § 92.254.

(ii) The participating jurisdiction or its instrumentality must execute, with the owner of the housing (or, if the participating jurisdiction is the owner, with the manager or developer), a written agreement that imposes and enumerates all of the affordability requirements from § 92.252 and § 92.253(a) and (b) (Tenant protections), or § 92.254, whichever are applicable; the property standards requirements of § 92.251; and income determinations made in accordance with § 92.203. This written agreement must be executed before any match contributions may be made.

(iii) A participating jurisdiction must establish a procedure to monitor HOME match-eligible housing to ensure continued compliance with the requirements of §§ 92.203 (Income determinations), 92.252 (Qualification as affordable housing: Rental housing), 92.253(a) and (b) (Tenant protections) and 92.254 (Qualification as affordable housing: Homeownership). No other HOME requirements apply.

(iv) The match may be in any eligible form of match except those in § 92.220(a)(2) (forbearance of fees), (a)(4) (on-site and off-site infrastructure),

(a)(10) (direct cost of supportive services) and (a)(11) (direct costs of home-buyer counseling services).

(v) Match contributions to mixed-use or mixed-income projects that contain affordable housing units will be recognized only if the contribution is made to the project's affordable housing units.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997]

§ 92.220 Form of matching contribution.

(a) *Eligible forms.* Matching contributions must be made from nonfederal resources and may be in the form of one or more of the following:

(1) *Cash contributions from nonfederal sources.* To be recognized as a cash contribution, funds must be contributed permanently to the HOME program (or to affordable housing not assisted with HOME funds), regardless of the form of investment provided to the project. Therefore, to receive match credit for the full amount of a loan to a HOME project, all repayment, interest, or other return on investment of the contribution must be deposited in the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities in accordance with the requirements of this part. A cash contribution to affordable housing that is not assisted with HOME funds must be contributed permanently to the project. Repayments of matching contributions in affordable housing projects, as defined in § 92.219(b), that are not HOME-assisted, must be made to the local account of the participating jurisdiction's HOME Investment Trust Fund to get match credit for the full loan amount.

(i) A cash contribution may be made by the participating jurisdiction, non-Federal public entities, private entities, or individuals, except as prohibited under paragraph (b)(4) of this section. A cash contribution made to a nonprofit organization for use in a HOME project may be counted as a matching contribution.

(ii) A cash contribution may be made from program income (as defined by 24 CFR 85.25(b)) from a Federal grant earned after the end of the award pe-

riod if no Federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program (24 CFR part 570, subpart G) and the Housing Development Grant Program (24 CFR part 850), and from the Rental Rehabilitation Grant Program (24 CFR part 511) after all fiscal year Rental Rehabilitation grants have been closed out.

(iii) The grant equivalent of a below-market interest rate loan to the project that is not repayable to the participating jurisdiction's HOME Investment Trust Fund may be counted as a cash contribution, as follows:

(A) If the loan is made from funds borrowed by a jurisdiction or public agency or corporation the contribution is the present discounted cash value of the difference between the payments to be made on the borrowed funds and payments to be received from the loan to the project based on a discount rate equal to the interest rate on the borrowed funds.

(B) If the loan is made from funds other than funds borrowed by a jurisdiction or public agency or corporation, the contribution is the present discounted cash value of the yield foregone. In determining the yield foregone, the participating jurisdiction must use as a measure of a market rate yield one of the following, as appropriate:

(1) With respect to one- to four-unit housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points;

(2) With respect to one- to four-unit housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points;

(3) With respect to a multifamily project, a rate equal to the 10-year Treasury note rate plus 300 basis points; or

(4) With respect to housing receiving financing for rehabilitation, a rate equal to the 10-year Treasury note rate plus 400 basis points.

(iv) Proceeds of bonds that are not repaid with revenue from an affordable